

Remarks

Claims 1-27, 29-33, and 35-45 are currently pending in this application. As explained below the Applicants respectfully submit that the claimed invention is patentably distinct from the cited references. In order to expedite prosecution and to place this application in condition for appeal the Applicant has cancelled claimed 46. In view of this cancellation and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

Rejections under 35 U.S.C. § 112

The Office Action rejects claim 46 under 35 U.S.C § 112, first paragraph as failing to comply with the written description requirement. In the interest of furthering prosecution, the Applicant has cancelled claim 46. Cancellation of Claim 46 is proper after a final action under 37 CFR 1.116 (b)(1). As such, the Applicant asserts that the cancellation of claim 46 is to be entered after final therefore rendering the rejection under 35 U.S.C § 112 moot.

Rejections under 35 U.S.C. § 102 and § 103

The Office Action rejects claims 1-6, 8-15, 17-22, 24-27, 29-33, 35-40, and 42-44 under 35 USC 102(b) as being anticipated by Van Eeden (US 6,154,136). The Office Action further rejects claims 7, 23, 41, and 46 under 35 USC 103(a) as being unpatentable over Van Eeden (US 6,154,136). Further, claim 16 is rejected under 35 USC 103(a) as being unpatentable over Van Eeden (US 6,154,136) in view of Ghaffari (US 6,662,068). Further still, claim 45 is rejected under 35 USC 103(a) as being unpatentable over Van Eeden (US 6,154,136) in view of Ertin et al. (US 2004/0198222). The Applicant respectfully traverses these rejections for at least the following several reasons.

Specifically, each of independent claims recites aspects that are not taught, motivated, or suggested by Van Eeden, Ghaffari or Ertin. For example, independent claims 1, 2, 17, 18, 27, 32, 33, 35, 36, and 45 (and the claims that depend therefrom), recite in one form or another, "creating a plurality of data line signals together defining a random number; feeding said data

line signals to a counter on respective ones of a plurality of data lines for determining the waiting period; and providing at least one of the data lines with logic circuitry wherein the logic circuitry is configured to control the at least one of the data lines to block or permit the respective data line signal to be received by the counter thereby adjusting a total number of data line signals reaching the input of the counter to control the maximum length of the waiting period.” As such, a plurality of signals are generated and fed to a counter on respective data lines (a data line for each signal). At least one of the data lines that are fed to a counter is controlled by logic circuitry. By controlling the data line, the logic circuitry can block or permit a signal from being passed to the counter, thereby adjusting a maximum potential duration for the waiting period.

As will be shown below, Van Eeden not only fails to anticipate each element of the claims but also fails to arrange or combine the elements in the same way as recited in the claims. For example, the Official Action improperly construes the plurality of data lines as claimed. In order to anticipate the claims, the prior art must show a plurality of data lines in the prior art reference. Even when given their broadest reasonable interpretation, a plurality of data lines are not simply flow lines in a diagram.

Additionally, the Office Action must show a plurality of data lines that are input into the counter from a random number generator. Instead of showing data lines input into a counter, the Office Action alleges that the comparator 40 of Van Eeden may be interpreted as the counter of the claims because the comparator receives multiple signals (e.g. inputs). However, the multiple signals received at the comparator 40 are from multiple different sources (e.g. a random number generator, a counter 46 and a counter 38) and thus cannot be the plurality of data lines found in the claims, because the data lines of the claims are all received from the random number generator. Additionally, the multiple flow lines of Van Eeden diagram further cannot be the plurality of data lines of the claims because each of the flow lines in Van Eeden do not carry a random number as recited in the claims (e.g. only the line between the random number generator 36 and the comparator 40 carry a random number). Therefore, because the Office Action has failed to demonstrate that the plurality of data lines are disclosed by Van Eeden as claimed, Van Eeden fails to teach or suggest the claims.

Further and with reference to Figure 2 of Van Eeden, it is apparent that the Random Number Generator 36 of Van Eeden does not output a plurality of data lines to the comparator 40, it is also apparent that Van Eeden discloses multiple counters (38 and 40) that do not receive data inputs from the random number generator indicating a different arrangement or combination than that which is recited in the claims. It is thus incorrect to then argue that the comparator of Van Eeden performs the same function as the counter of the claims, because Van Eeden himself notes that his comparator is not a counter. The comparator receives a random number from the random number generator, an interval from the interval counter and completely separate from the random number generator, the comparator receives the number of bits that are compared from the counter 46. It is clear from Figure 2 of Van Eeden, that Van Eeden is arranged in a different way than the claims, namely the two separate counters and the lack of a plurality of data lines. Not only must Van Eeden anticipate each element of the claims but Van Eeden must also arrange or combine the elements in the same way as recited in the claims. See, e.g., Net Moneyin, Inc. v. Verisign, Inc., 545 F.3d 1359, 1371 (Fed. Cir. 2008). Therefore, because Van Eeden is not arranged and does not combine elements in the same way of the claims, the anticipation rejection with respect to Van Eeden is impermissible.

Finally, the Office Action cites to Van Eeden 4:50-67 for the purposes of anticipating “wherein the logic circuitry is configured to control the at least one of the data lines to block or permit the respective data line signal to be received by the counter thereby adjusting a total number of data line signals reaching the input of the counter to control the maximum length of the waiting period.” Assuming for the purposes of argument that the random inter-transmission interval generation means 34 that includes the random number generator 36, the comparator 40 and the interval counter 38 is the logic circuitry of the claims, then the rejection must show that the random inter-transmission interval generation means 34 is configured to adjust a total number of data line signals reaching the input of the counter to control the maximum length of the waiting period.” Diamond v. Diehr, 450 U.S. 175, 188-89 (1981). (Each claim must be construed as a whole). However, the random inter-transmission interval generation means 34 does not perform this function in Van Eeden. Instead, the number of bits that are compared in the comparator 40 of Van Eeden are controlled by counter 46. The counter 46 is not at all tied to the

output by the random number generator of Van Eeden and importantly is not part of the defined random inter-transmission interval generation means 34. Therefore the inter-transmission interval generation means 34 cannot be the logic circuitry of the claims because the logic circuitry of the claims is configured to control the at least one of the data lines to block or permit the respective data line signal to be received by the counter thereby [the logic circuitry adjusts] a total number of data line signals reaching the input of the counter to control the maximum length of the waiting period.

Claims 7, 16, 23, 41, and 45 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Eeden alone, Van Eeden in view of U.S. Patent No. 6,662,068 to Ghaffari, or Van Eeden in view of U.S. Patent Publication No 2004/0198222 to Ertin. However, these cited combination relies upon Van Eeden for disclosing the same features as described above with respect to the anticipation rejection. Since Van Eeden fails in this regard, and the other cited references do not cure the deficiencies of Van Eeden (nor are they cited for this purpose), dependent claims 7, 16, 23, 41, and 45 are patentable over the cited combination due at least to the failures of Van Eeden. The rejections of claims 7, 16, 23, 41, and 45 are therefore overcome.

Since, Van Eeden, Ghaffarai or Ertin fail to anticipate, teach or suggest the claim elements in the manner set forth by the independent claims it follows that no combination of these references teach or suggest the same claim recitations. Therefore, the independent claims are not taught or suggested by Van Eeden, Ghaffarai or Ertin, taken alone or in any proper combination, such that the rejection of independent claims as well as the claims which depend therefrom, are believed to overcome the §§ 102 and 103 rejections and are in condition for allowance.

CONCLUSION

In view of the amendments and remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

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It is believed that no extension of time or other fees are required. The fee for the additional dependent claim is authorized to be charged to Deposit Account No. 16-0605. In the event that any additional petitions and/or other fees are required to allow consideration of this Reply, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any other fee required therefore (including fees for net addition of claims and/or an extension of time) is also hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Christopher TL Douglas
Registration No. 56,950

ALSTON & BIRD LLP

Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

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